

U.S. Patent Appln. No.: 09/838,147
Reply to Office Action of February 18, 2009
Response dated May 11, 2009

REMARKS/ARGUMENTS

The Office Action of February 18, 2009, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 21-24 and 27 were canceled previously. Claim 43 has been added. No new matter has been added. Claims 1-20, 25, 26, and 28-43 are pending upon entry of the present paper.

Applicants note with appreciation the indication of the allowability of claims 1-20 and 29-38. Applicants note that claim 42 was not rejected on the basis of prior art (e.g., under one or more of 35 U.S.C. §§ 102, 103). Thus, Applicants believe that claim 42 is patentable, in view of the below remarks related to the rejection under 35 U.S.C. § 112.

Claims 25, 26, 28, and 39-43 are also in condition for allowance based on the below remarks, and Applicants respectfully request notification of same.

Rejections Under 35 U.S.C. § 112

Claim 42 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection is traversed.

The Office Action at page 2 contends that the original disclosure does not define features related to "one or more tangible computer storage media." Applicants disagree for at least the reasons discussed at page 8 of Applicants' "Amendment" filed October 8, 2008 (under the discussion of the Rejections Under 35 U.S.C. § 101). In short, illustrative examples are provided in the specification to support the recitation of one or more tangible computer storage media. Accordingly, one skilled in the art would have appreciated that Applicants were in possession of such features at the time the instant application was filed. Thus, the section 112, first paragraph rejection is improper. Applicants request withdrawal of the rejection.

Moreover, in the event that the Office maintains a section 112, first paragraph rejection of claim 42, Applicants respectfully request the Office to specifically respond to Applicants' remarks citing to the support provided in the specification. See MPEP § 707.07(f) (providing that where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it). See also MPEP § 706.03 (providing that where a major technical rejection is proper (e.g., lack of proper

U.S. Patent Appln. No.: 09/838,147
Reply to Office Action of February 18, 2009
Response dated May 11, 2009

disclosure, undue breadth, utility, etc.) such rejection should be stated with a full development of the reasons rather than by a mere conclusion coupled with some stereotyped expression).

Rejections Based on Rupp in view of Hind

Claims 25 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent no. 6,144,464 to Rupp et al. ("Rupp") in view of U.S. pat. no. 6,886,095 to Hind et al. ("Hind"). This rejection is traversed below.

Claim 25 recites, among other features, "a controller configured to receive user-selected information related to a resource via a wireless communication network and to send the resource related information to a wireless terminal."

As a preliminary matter, it is noted that the Office Action at pages 2-3 does not even contend that Rupp (and/or Hind) discloses such features. Instead, the Office Action at page 2 appears to relate the above-noted features recited in claim 1 to "a controller configured to receive an input of resource related information from another terminal." However, a claimed invention must be considered as a whole, and it is improper to distill an invention down to its "gist" or "thrust." See MPEP § 2141.02 (I. and II.).

Contrary to the contentions in the Office Action at page 2, Rupp at col. 10, lines 7-42 fails to describe the above-noted features recited in claim 25. Instead, Rupp at the cited passage merely describes a query task that compares a number of received errors in a received facsimile data message by comparing a number of CRC errors in received data against a threshold; if the threshold is exceeded then the query task determines if it is appropriate to retransmit the message or to request an adjustment of a transmission rate if the transmission is considered futile. The cited passage is wholly silent with respect to features related to sending resource related information to a wireless terminal as recited in claim 25. Accordingly, claim 25 is allowable over Rupp for at least these reasons. Moreover, notwithstanding whether Hind is properly combinable with Rupp, Hind fails to remedy the deficiencies of Rupp. Thus, claim 25 is allowable over the references of record for at least the foregoing reasons.

Additionally, Applicants have amended claim 25 to clarify the features recited therein. More specifically, amended claim 25 recites "wherein the controller is further configured to negotiate a connection with the wireless terminal and subsequently to send the *resource related*

U.S. Patent Appln. No.: 09/838,147
Reply to Office Action of February 18, 2009
Response dated May 11, 2009

information selected by the user over the connection.” Prior to the amendment, the Office relied on the inner page negotiation step described in Rupp at col. 10, lines 7-42. The inner page negotiation step fails to teach or suggest features related to negotiating a connection with a wireless terminal and subsequently sending resource related information selected by a user over the connection because the negotiating step of Rupp merely relates to renegotiating a data transfer rate using a reduced frequency. The negotiating step of Rupp does not teach or suggest negotiating a connection with a(nother) wireless terminal in order to send resource related information to the wireless terminal. Hind also fails to remedy the deficiencies of Rupp with respect to these features. Accordingly, claim 25 is further allowable over the applied references for at least these additional reasons.

Claim 28 depends from claim 25 and is allowable for at least the same reasons as claim 25.

Rejections Based on Rupp in view of Hind and Lee

Claim 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rupp in view of Hind and U.S. pat. no. 6,490,291 to Lee et al. (“Lee”). This rejection is traversed below.

Notwithstanding whether any combination of Lee, Rupp, and Hind is proper, Lee fails to remedy the deficiencies of Rupp and Hind described above with respect to claim 25. As such, claim 26, which depends from claim 25, is allowable for at least the same reasons as claim 25.

Rejections Based on Rupp in view of Hind and Luna

Claims 39-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Rupp in view of Hind and U.S. pub. no. 2002/0123335 to Luna (“Luna”). This rejection is traversed below.

Notwithstanding whether any combination of Luna, Rupp, and Hind is proper, Luna fails to remedy the deficiencies of Rupp and Hind described above with respect to claim 25. As such, claims 39-41, which depend from claim 25, are allowable for at least the same reasons as claim 25.

U.S. Patent Appln. No.: 09/838,147
Reply to Office Action of February 18, 2009
Response dated May 11, 2009

New Claim

Claim 43 depends from claim 25, and is allowable for at least the same reasons as claim 25. No new matter has been added.

Moreover, claim 43 recites "wherein the push command is a WAP push command." Illustrative, non-limiting written description support is provided in the filed specification when read as a whole, and for example, at page 11, lines 1-15.

In the context of rejecting claim 25, the Office Action at page 3 correctly indicates that Rupp fails to disclose features related to "wherein the controller is configured to send the resource related information to the wireless terminal via a push command" as recited therein. But, the Office Action contends that Hind at col. 13, lines 10-39 describes the above-noted features as recited in claim 25. More specifically, the Office analogizes a user's action of pushing a button (6060) as described in Hind at col. 13, lines 10-39 to the push command recited in claim 25.

Even assuming (without admitting) that the user action of pushing a button as described in Hind may appropriately be analogized to the broad interpretation of the push command recited in claim 25, the user action of pushing a button fails to teach or suggest a *WAP* push command as recited in claim 43. Accordingly, claim 43 is allowable over Hind for at least these additional reasons. Moreover, none of the other references of record remedy Hind in this respect (notwithstanding whether any such combination of references is proper). Accordingly, claim 43 is further allowable in view of the features recited therein.

U.S. Patent Appln. No.: 09/838,147
Reply to Office Action of February 18, 2009
Response dated May 11, 2009

CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly. All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Date: May 11, 2009

By: /Ross Dannenberg/
Ross A. Dannenberg
Registration No. 49,024
1100 13th Street, N.W.
Suite 1200
Washington, D.C. 20005-4051
Tel: (202) 824-3000
Fax: (202) 824-3001